UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,827	10/29/2001	Jason R. Thompson	D5110	5624

7590 08/09/2006

Jeffrey P. Calfa
International Truck Intellectual
Property Company, L.L.C.
4201 Winfield Rd.
Warrenville, IL 60555

EXAMINER	
ROSENBERG, LAURA B	
ART UNIT	**PAPER NUMBER**
3616	

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/047,827
Filing Date: October 29, 2001
Appellant(s): THOMPSON ET AL.

Jeffrey P. Calfa
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 18 May 2006 appealing from the Office action mailed 20 January 2004. Please note that the Petition Decision mailed on 24 May 2005 states that the Petitioner's Request serves as a Notice of Appeal.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

3,395,883	Murgas	8-1968
5,100,093	Rawlinson	3-1992

Applicant's Admitted Prior Art, figure 3, pages 1-3.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murgas (3,395,883) in view of Rawlinson (5,100,093). In regards to claim 1, 2, 5, 10, 12, 13, 16-19, 22, 27, 29, 30, 33, and 34, Murgas discloses a universal accessory-mounting assembly for supporting an accessory (#10) at a distance from a base structure (#39) to which the universal accessory-mounting assembly may be attached, comprising three support components (#16, 20, 28) having a base end (near #23, 42) and an accessory-support end (near #12, 26, 32). Each support component has its accessory-support end engaged to the accessory-support end of the other support components (via #26, 32). The assembly further comprises three independent base-attachment structures (#34, 36) engaged to a base end of each support component, wherein each of the base-attachment structures comprises means for securing it to the base structure (stepped hood feet and a fender foot). The assembly comprises an

accessory-attachment structure (#12 and connection between #10 and #12) to which the accessory may be mounted, wherein the accessory-attachment structure is engaged directly to (#16) and indirectly to (#20, 28) and comprises one of the accessory-support ends (#12, 16) of the support components. The specifics of the vehicle, including the frame structure(s), suspension system, and body structure(s) are inherent and are not specifically pointed out. Murgas does not disclose the base-attachment structures being biaxially pivotally engaged to the base end of each support component by a ball-and-socket joint. Rawlinson teaches a universal accessory-mounting assembly for supporting an accessory (#20) at a distance from a base structure (#43), comprising two support components (#55) having a base end (shown in figure 5) and an accessory-support end (end near #35 shown in figures 3, 4). Each support component has its accessory-support end engaged to the accessory-support end of the other support component (best seen in figures 1-3). The assembly further comprises two independent base-attachment structures (figure 5) engaged to a base end of each support component, wherein each of the base-attachment structures comprises means for securing it to the base structure (figure 5) and the base-attachment structures are biaxially pivotally engaged to the base end of each support component by a ball-and-socket joint (figure 5; column 5, lines 4-35). The assembly comprises an accessory-attachment structure (#33, 35) to which the accessory may be mounted, wherein the accessory-attachment structure is engaged to and comprises respective accessory-support ends of the support components (best seen in figures 3, 4; column 5, lines 19-22). It would have been obvious to one skilled in the art at the

time that the invention was made to modify the base-attachment structures of Murgas such that they were biaxially pivotally engaged to the base end of each support component by a ball-and-socket joint as claimed in view of the teachings of Rawlinson so as to make the assembly adaptable to vehicles with different base structure designs (Rawlinson: column 5, lines 24-27).

In regards to claims 3, 4, 7, 14, 15, 20, 21, 24, 31, and 32, Murgas discloses three support components (#16, 20, 28) being engaged to each other in such a manner that they are selectively movable relative to each other, the three support components being uniaxially pivotally engaged to each other and their orientations being uniaxially pivotally adjustable relative to each other (column 2, lines 20-21, 25-28).

In regards to claims 6 and 23, Murgas discloses the assembly including structure which can be utilized to selectively secure each support component's orientation relative to the other support components (via adjustment of bolts and nuts #24, 30).

In regards to claims 8 and 25, Murgas discloses each axis (axes are through bolts #24, 30) about which each support component is pivotal relative to the other support components being disposed at an angle to all other axes about which the other support components are pivotal (best seen in figure 2).

In regards to claims 9 and 26, Murgas discloses each of the base attachment structures (#34, 36) comprising a mounting pad (curved portion of #34 and stepped portions of #36) which has a flat mounting-face which is firmly pressed against the base structure when the assembly is mounted to the base structure (best seen in figure 3).

In regards to claims 11 and 28, Murgas discloses the support components being relatively long, thin members of unitary construction (best seen in figure 2).

In regards to claims 35, 37, and 39, Murgas discloses the accessory being a mirror (#10).

In regards to claims 36, 38, and 40, Murgas discloses the body structures including a cab and an engine compartment hood (#39) disposed in front of the cab, the base structure to which the assembly is mounted being the engine compartment hood, the assembly being mounted at a forward end of the engine compartment hood, and the accessory that is mounted to the assembly being a mirror, a reflecting surface of which is at least partially directed toward the cab such that a driver of the vehicle can view images of areas in front, beside, or behind the vehicle in the reflecting surface of the mirror (best seen in figure 1).

Claims 1-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Rawlinson (5,100,093). In regards to claim 1, 2, 5, 10, 12, 13, 16-19, 22, 27, 29, 30, 33, and 34, the admitted prior art discloses a universal accessory-mounting assembly (figure 3; pages 1-3) for supporting an accessory at a distance from a base structure to which the universal accessory-mounting assembly may be attached, comprising three support components (#13) having a base end (#14) and an accessory-support end (#15). Each support component has its accessory-support end engaged to the accessory-support end of the other support components (figure 3). The assembly further comprises three

independent base-attachment structures (#17-19) engaged to a base end of each support component, wherein each of the base-attachment structures comprises means for securing it to the base structure (#26). The assembly comprises an accessory-attachment structure (#23) to which the accessory may be mounted, wherein the accessory-attachment structure is engaged directly to (middle #15) and indirectly to (left and right #15) and comprises one of the accessory-support ends (middle #15) of the support components. The specifics of the vehicle, including the frame structure(s), suspension system, and body structure(s) are not specifically pointed out. However, the applicant discloses that the admitted prior art accessory mounting assembly is an example of "accessory-mounting assemblies for mounting accessories at a distance from a base structure such as a body structure of a vehicle" (page 1, paragraph 0001), similar to the vehicle of the claimed invention. In addition, the admitted prior art does not disclose the base-attachment structures being biaxially pivotally engaged to the base end of each support component by a ball-and-socket joint. Rawlinson teaches a universal accessory-mounting assembly for supporting an accessory (#20) at a distance from a base structure (#43), comprising two support components (#55) having a base end (shown in figure 5) and an accessory-support end (end near #35 shown in figures 3, 4). Each support component has its accessory-support end engaged to the accessory-support end of the other support component (best seen in figures 1-3). The assembly further comprises two independent base-attachment structures (figure 5) engaged to a base end of each support component, wherein each of the base-attachment structures comprises means for securing it to the base structure (figure 5)

and the base-attachment structures are biaxially pivotally engaged to the base end of each support component by a ball-and-socket joint (figure 5; column 5, lines 4-35). The assembly comprises an accessory-attachment structure (#33, 35) to which the accessory may be mounted, wherein the accessory-attachment structure is engaged to and comprises respective accessory-support ends of the support components (best seen in figures 3, 4; column 5, lines 19-22). It would have been obvious to one skilled in the art at the time that the invention was made to modify the base-attachment structures of the admitted prior art such that they were biaxially pivotally engaged to the base end of each support component by a ball-and-socket joint as claimed in view of the teachings of Rawlinson so as to make the assembly adaptable to vehicles with different base structure designs (Rawlinson: column 5, lines 24-27).

In regards to claims 3, 4, 7, 14, 15, 20, 21, 24, 31, and 32, the admitted prior art discloses three support components (#13) being engaged to each other in such a manner that they are selectively movable relative to each other, the three support components being uniaxially pivotally engaged to each other and their orientations being uniaxially pivotally adjustable relative to each other (figure 3).

In regards to claims 6 and 23, the admitted prior art discloses the assembly including structure which can be utilized to selectively secure each support component's orientation relative to the other support components (via #25).

In regards to claims 8 and 25, the admitted prior art discloses each axis (axis through #25) about which each support component is pivotal relative to the other

support components being disposed at an angle to all other axes about which the other support components are pivotal (figure 3).

In regards to claims 9 and 26, the admitted prior art discloses each of the base attachment structures (#17-19) comprising a mounting pad (#18), which has a flat mounting-face (#19) which is firmly pressed against the base structure when the assembly is mounted to the base structure.

In regards to claims 11 and 28, admitted the prior art discloses the support components being relatively long, thin members of unitary construction (figure 3).

In regards to claims 35-40, the admitted prior art does not specifically disclose the accessory being a light, antenna, or mirror, nor does it disclose the specific features of the vehicle to which the assembly is mounted. However, the applicant implies that the primary difference between the admitted prior art assembly and the assembly of the present invention is the biaxially pivotal ball-and-socket base attachment structure. Thus, the admitted prior art has the same structural features as the claimed invention with the exception of the base-attachment structures.

(10) Response to Argument

1. Construction of the Rawlinson '093 patent

The appellant argues that Rawlinson does not teach biaxial movement of the ball-and-socket joint. The examiner contends that the ball-and-socket joint provides a multi-axis pivot, which includes biaxial movement (Rawlinson: column 5, lines 30-32).

The appellant argues that the examiner made a mistake on page 4, the first full paragraph of the final office action. The examiner agrees with the appellant, and apologizes for any confusion. This paragraph should read, "Murgas discloses three support components..."

The appellant argues that Rawlinson does not teach the use of ball-and-socket joints in a stable support assembly having a minimum of three points of support. The examiner contends that Rawlinson teaches the use of ball-and-socket joints for multi-axial movement on surfaces of different shapes and sizes, which can be beneficial to assemblies with various numbers of legs.

2. Comments on Appealed Claims 1 and 18 in view of Rawlinson

The appellant argues that Rawlinson does not teach a "universal accessory-mounted assembly'. The examiner contends that Rawlinson's accessory-mounted assembly is universal in that it is versatile and could be adapted to meet various requirements, as pointed out when Rawlinson states that the ball from the ball-and-socket assembly "allows the clamps 51 to adapt to all windshields on the market. The ball 50 is necessary because most windshields having compound angles" (Rawlinson: column 5, lines 24-27). Also, though not specifically pointed out, the assembly could be used for various accessory mountings.

3. Construction of the Murgas '883 patent

The appellant argues that the Murgas reference differs from the Rawlinson reference, the admitted prior art, and the appellant's claimed invention in that Murgas's accessory-mounted assembly is intended to be readily removable. The examiner contends that this feature of the Murgas reference has no bearing on its use as prior art in the examiner's rejection.

The appellant argues that the Murgas reference would be compromised operationally if modified to include ball-and-socket joints in between the support legs and the feet. The examiner contends that since Murgas's feet (#34, 36) are fixedly engaged on the base structure (#39*, best seen in figure 3), the addition of ball-and-socket joints in between the feet and the support legs (#16, 20, 28) would not cause the assembly to be compromised operationally because the feet would still be able to fixedly engage the base structure, as in the current Murgas reference, and they would not self-detach.

4. Applicants' Admitted Prior Art

The appellant argues that the Applicants' Admitted Prior Art does not teach attaching mounting pads to leg supports using biaxially pivotable mounting pads for any combination of legs supports. The examiner applied the Rawlinson patent to teach the use of biaxially pivotable attachments.

5. The Unapplied References of Record

The examiner acknowledges appellant's comments with respect to the Strauss reference. However, these comments are moot since the Strauss reference has not been applied in a prior art rejection.

6. Failure to Find Basis for Combination of the References Argues for Patentability of All of the Claims

The appellant argues that there is no teaching in Rawlinson to support the proposed modifications of the Murgas reference or the Applicants' Admitted Prior Art. The examiner contends that at least one motivating factor in applying the Rawlinson reference is to make the assembly adaptable to vehicles with different base structure designs (Rawlinson: column 5, lines 24-27).

The appellant argues that the Murgas reference would be made inoperable if modified to include ball-and-socket joints in between the support legs and the feet. The examiner contends that since Murgas's feet (#34, 36) are fixedly engaged on the base structure (#39*, best seen in figure 3), the addition of ball-and-socket joints in between the feet and the support legs (#16, 20, 28) would not cause the assembly to become inoperable because the feet would still be able to fixedly engage the base structure, as in the current Murgas reference, and they would not self-detach.

7. Absence from the Art of Teaching a Limitation of Claims 2 and 19

The appellant argues that the prior art does not disclose or teach the contents of claims 2 and 19. The examiner contends that based on the phrase "one or less of said base-attachment structures are engaged to a base end...", the prior art can teach that none of the base-attachment structures have this feature and the prior art will still read on these claims.

(11) Related Proceeding(s) Appendix

Copies of the court or Board decision(s) identified in the Related Appeals and Interferences section of this examiner's answer are provided herein.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Laura B. Rosenberg

Laura B. Rosenberg

Conferees:

Paul Dickson

Lesley Morris

Laura B. Rosenberg

8/7/06

PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600